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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,212	09/11/2003	William R. Belcourt	22873	6546

7590

12/21/2005

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,212

Applicant(s)

BELCOURT ET AL.

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/5/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is the final Office Action for the serial number 10/660,212, ICE SCREW HAVING BREAKAWAY OR FLEXING CRANK HANDLE, filed on 9/11/03.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 7/5/05 was filed after the mailing date of the first Office Action on 3/25/05. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

The drawings were received on 9/28/05. These drawings are approved.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 10 and claim 33, lines 12-13, "being configured to displace and flex in any direction" is indefinite because the applicant is trying to cite the handle move in two separated

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directions, displace and flex, which is not shown in figures 3-5b. It should be changed to --- being configured to displace by flex in any direction--- for clarification.

Claim 21, lines 6-7, "to flex and displace in any direction" is indefinite because the applicant is trying to cite the handle to move in two separated directions, displace and flex, which is not shown in figures 3-5b.

Claims 2-20 are rejected as depending on rejected claim 1. Claims 22-32 are rejected as depending on rejected claims 22-32.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7-19, 21-23, 25-27 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,782,442 to Kwak et al.

Kwak et al. teaches an ice screw (figure 1) comprising a hollow shaft (20) having a plurality of screw threads (22), a hanger (40) coupled to the hollow shaft and a flexing crank handle (60) coupled to the hanger. The flexing crank handle functions as a crank arm and comprising a mechanism. The mechanism includes a crank support means (88) for attaching the flexing crank handle to the hanger, a flexing member (figure 7) operable with the crank support means, and a sleeve (64) rotatable about the flexing member. The flexing member comprises a compression spring (76) supported within the sleeve and pre-load using a plunger (78) attached

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to crank support means (62) that fits within the sleeve. The spring has a predetermined stiffness. The flexing member comprises a spiral spring. The flexing member comprises an internal coil spring. The crank support means is a rigid rod pivotally attached to the hanger and a flexible material. The hanger comprises a flex boundary (94) that dictates the flex path of the flexing crank handle and supports the flexing crank handle in the resting (90) and plurality of flexed positions (92 and 94). The flex boundary comprises a flat and a radius portion. The sleeve is a rotating sleeve (col. 4, line 51) that rotates about the flexing member. The flexing crank handle reduces cross-loading of an attached carabiner (col. 4, line 6) by flexing. The flexing crank handle comprises bi-directional flexing (spring). The flexing crank handle comprises vector flexing. The flex boundary is a multi-vector flex boundary defined by a knob (80) coupled to the hanger, wherein the knob has a semi-spherical surface shape allowing the flexing crank handle to flex in any direction about the surface.

Kwak et al. teaches the flexing crank handle but fails to teach the crank handle is being configured to displace and flex in any direction from a resting position to a plurality of flexed position. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Kwak et al.'s crank handle to displace and flex in any direction from resting position to a plurality of flexed positions along the hanger to provide convenience for adjusting the screw at any angle.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwak et al. in view of US Patent Application Publication # 2002/0074443 to Murdock et al.

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Kwak et al. teaches the rotating sleeve but fails to teach the rotating sleeve comprises bearing. Murdock et al. teaches the rotating sleeve comprising bearing (29). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the bearing to Kwak et al.'s rotating sleeve to provide efficient for rotating the sleeve about the flexing member.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kwak et al.

Kwak et al. teaches an ice screw (figure 1) comprising a hollow shaft (20) having a plurality of screw threads (22), a hanger (40) coupled to the hollow shaft and a flexing crank handle (60) coupled to the hanger. The flexing crank handle functions as a crank arm and comprising a mechanism. The mechanism includes a crank support means (88) for attaching the flexing crank handle to the hanger, a flexing member (figure 7) operable with the crank support means, and a sleeve (64) rotatable about the flexing member. The flexing member comprises a compression spring (76) supported within the sleeve and pre-load using a plunger (78) attached to crank support means (62) that fits within the sleeve. The spring has a predetermined stiffness. The flexing member comprises a spiral spring. The flexing member comprises an internal coil spring. The crank support means is a rigid rod pivotally attached to the hanger and a flexible material. The hanger comprises a flex boundary (94) that dictates the flex path of the flexing crank handle and supports the flexing crank handle in the resting (90) and plurality of flexed positions (92 and 94). The flex boundary comprises a flat and a radius portion. The sleeve is a rotating sleeve (col. 4, line 51) that rotates about the flexing member. The flexing crank handle reduces cross-loading of an attached carabiner (col. 4, line 6) by flexing. The flexing crank

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handle comprises bi-directional flexing (spring). The flexing crank handle comprises vector flexing. The flex boundary is a multi-vector flex boundary defined by a knob (80) coupled to the hanger, wherein the knob has a semi-spherical surface shape allowing the flexing crank handle to flex in any direction about the surface.

Kwak et al. teaches the flexing crank handle but fails to teach the crank handle is being configured to displace and flex in any direction from a resting position to a plurality of flexed position. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Kwak et al.'s crank handle to displace and flex in any direction from resting position to a plurality of flexed positions along the hanger to provide convenience for adjusting the screw at any angle.

Kwak et al. teaches all elements but fails to teach the use of elements in method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for screwing the ice screw into an ice body and attaching the carabiner to the screw to reduce the chance of accident when the ice screw is not proper installed.

Response to Arguments

Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

With respect to applicant's argument on pages 10-11 stating that Kwak does not teach the handle may flex and that it is not capable of pivoting or flexing in any direction or in any plane.

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Kwak is only capable pivoting between a folded and unfolded position in a bi-directional manner only and along in a single plane. With new rejection under obvious (103) that it would be obvious to have modified Kwak's position on the handle to increase location for the handle to flex along the handle for convenience of adjusting the screw at any angle. With the modification, the handle would be flexing in any direction or in any plane.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Kwak and Murdock both teach handle for cranking/rotating an object and that it is obvious to have added Murdock's sleeve and bearing configuration from handle to Kwak et al's handle to provide convenience for rotating the handle.

Allowable Subject Matter

Claims 5-6, 24 and 28-29 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

In regard to claims 5 and 28-29, the prior art fails to teach the flexing member comprises complimentary solid height coil springs attached opposite one another on the hanger. In regards

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to claim 6, the flexing member comprises a solid height coil spring attached within a recess formed in the hanger. In regards to claim 24, the prior art fails to teach the attachment means is a flexible member.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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11/30/05